

Assembly Bill No. 532

CHAPTER 769

An act to amend Sections 50843.5 and 53545.9 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 2013. Filed with
Secretary of State October 12, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 532, Gordon. Local Housing Trust Fund.

Existing law establishes the Local Housing Trust Fund Matching Grant Program for the purpose of supporting local housing trust funds dedicated to the creation or preservation of affordable housing. Existing law requires the Department of Housing and Community Development to make available the amount of \$35,000,000 for the Local Housing Trust Fund Matching Grant Program, from the continuously appropriated Housing and Emergency Shelter Trust Fund of 2006.

Under the grant program, the department is authorized to make matching grants available to cities, counties, cities and counties, and existing charitable nonprofit organizations that have created, funded, and operated housing trust funds. The minimum allocation to a program applicant is \$1,000,000 for existing trust funds, or \$500,000 for newly established housing trust funds. The maximum allocation for any applicant is \$2,000,000. Under existing law, all funds provided under the grant program are to be matched on a dollar-for-dollar basis with moneys that are not required by any state or federal law to be spent on housing.

This bill would revise the law applicable to the above grant program, including (1) reducing the maximum allocation to \$1,000,000 per notice of funding availability for a trust that has previously received a grant through the program, (2) revising funding priorities for certain types of local housing trust funds, and (3) revising requirements relative to deed restrictions and equity sharing agreements applicable to for-sale housing projects or units within for-sale housing projects.

Under existing law, an applicant is required to continue funding the local housing trust fund from identified local sources, and continue the trust in operation for a period of no less than 5 years from the date of award.

This bill would extend any award to a local housing trust that was under contract on January 1, 2013, by 12 months.

Existing law requires 50% of the funds allocated to the Local Housing Trust Fund Matching Grant Program to be made available exclusively for newly established housing trust funds. Existing law requires funds set aside for newly established housing trust funds to be available for encumbrance

for 42 months and, after that time, to revert to another specified housing fund.

This bill would remove the above restrictions, making the funds continuously available for purposes of the program and not reverting to another fund, thus making an appropriation. The bill also would authorize funding for a housing trust fund that had previously received a grant under the program.

Under existing law, the department awards funds under the grant program through the issuance of a Notice of Funding Availability (NOFA), as specified.

This bill would require the department to issue a new NOFA for new trusts, as defined, by June 30, 2014.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 50843.5 of the Health and Safety Code is amended to read:

50843.5. (a) Subject to the availability of funding, the department shall make matching grants available to cities, counties, cities and counties, and charitable nonprofit organizations organized under Section 501(c)(3) of the Internal Revenue Code that have created and are operating or will operate housing trust funds. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA).

(1) Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

(2) The department shall set aside funding for new trusts, as defined by the department in the NOFA. Notwithstanding any other law, the department shall issue a new NOFA by June 30, 2014, for new trusts, and, for purposes of this NOFA, a new trust shall include an existing trust for which the matching funds come from a new revenue source identified or created on or after June 30, 2012. For purposes of this paragraph, a new revenue source shall include, but is not limited to, a new tax, fee, contribution of public or private funds not already dedicated to housing, or an increase in an existing tax or fee directly adopted by a city, county, or city and county. The department may issue this NOFA pursuant to guidelines that shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Housing trusts eligible for funding under this section shall have the following characteristics:

(1) Utilization of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.

(2) Receipt of ongoing revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.

(c) The minimum allocation to an applicant that is a newly established trust shall be five hundred thousand dollars (\$500,000). The minimum allocation for all other trusts shall be one million dollars (\$1,000,000). An applicant may not receive an allocation in excess of two million dollars (\$2,000,000) per NOFA, and a trust that has previously received a grant through the program may not receive an allocation in excess of one million dollars (\$1,000,000) per NOFA. All funds provided pursuant to this section shall be matched on a dollar-for-dollar basis with moneys that are not required by any state or federal law to be spent on housing. An application for an existing housing trust shall not be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match and the identity of the source of matching funds. An application for a new trust shall not be considered unless the department has received adequate documentation, as determined by the department, that an ordinance imposing or dedicating a tax or fee to be deposited into the new trust has been enacted or the applicant has adopted a legally binding commitment to deposit matching funds into the new trust. Funds shall not be disbursed by the department to any trust until all matching funds are on deposit and then funds may be disbursed only in amounts necessary to fund projects identified to receive a loan from the trust within a reasonable period of time, as determined by the department. Applicants shall be required to continue funding the local housing trust fund from these identified local sources, and continue the trust in operation, for a period of no less than five years from the date of award. If the funding is not continued for a five-year period, then (1) the amount of the department's grant to the local housing trust fund, to the extent that the trust fund has unencumbered funds available, shall be immediately repaid, and (2) any payments from any projects funded by the local housing trust fund that would have been paid to the local housing trust fund shall be paid instead to the department and used for the program or its successor. The total amount paid to the department pursuant to (1) and (2), combined, shall not exceed the amount of the department's grant.

(d) (1) Funds shall be used for the predevelopment costs, acquisition, construction, or rehabilitation of the following types of housing or projects:

(A) Rental housing projects or units within rental housing projects. The affordability of all assisted units shall be restricted for not less than 55 years.

(B) Emergency shelters, safe havens, and transitional housing, as these terms are defined in Section 50801.

(C) For-sale housing projects or units within for-sale housing projects.

(2) At least 30 percent of the total amount of the grant and the match shall be expended on projects, units, or shelters that are affordable to, and restricted for, extremely low income households, as defined in Section 50106. No more than 20 percent of the total amount of the grant and the match shall be expended on projects or units affordable to, and restricted for, moderate-income persons and families whose income does not exceed

120 percent of the area median income. The remaining funds shall be used for projects, units, or shelters that are affordable to, and restricted for, lower income households, as defined in Section 50079.5.

(3) If funds are used for the acquisition, construction, or rehabilitation of for-sale housing projects or units within for-sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the for-sale housing units, unless it is in conflict with the requirements of another public funding source or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section 50052.5, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity-sharing agreement. The grantee shall reuse the proceeds of the equity-sharing agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.

(4) Notwithstanding subparagraph (A) of paragraph (1) or paragraph (3), a local housing trust fund shall not be required to record a separate deed restriction or equity agreement for any project or home that it finances, if a restriction or agreement that meets the requirements of subparagraph (A) of paragraph (1) or paragraph (3), as applicable, has been, or will be, recorded against the property by another public agency.

(e) Loan repayments shall accrue to the grantee housing trust for use pursuant to this section. If the trust no longer exists, loan repayments shall accrue to the department for use in the program or its successor.

(f) (1) In order for a city, county, or city and county to be eligible for funding, the applicant shall, at the time of application, meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(2) In order for a nonprofit organization applicant to be eligible for funding, the applicant shall agree to utilize funds provided under this chapter only for projects located in cities, counties, or a city and county that meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(3) A city, county, or city and county that has received an award pursuant to this section shall not encumber any program funds unless it has an adopted housing element the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(g) Recipients shall have held, or shall agree to hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds provided pursuant to this section. As a condition of receiving a grant pursuant to this section, any nonprofit organization shall agree that it will hold one public meeting a year to discuss the criteria that will be used to select projects to be funded. That meeting shall be open to the public, and public notice of this meeting shall be provided, except to the extent that any similar meeting of a city or county would be permitted to be held in closed session.

(h) No more than 5 percent of the funds appropriated to the department for the purposes of this program shall be used to pay the costs of administration of this section.

(i) A local housing trust fund shall encumber funds provided pursuant to this section no later than 36 months after receipt. In addition, any award to a local housing trust that was under contract on January 1, 2013, shall be extended by 12 months, subject to progress benchmarks to be established

by the department. Any funds not encumbered within that period shall revert to the department for use in the program or its successor.

(j) Recipients shall be required to file periodic reports with the department regarding the use of funds provided pursuant to this section. No later than December 31 of each year in which funds are awarded by the program, the department shall provide a report to the Legislature regarding the number of trust funds created, a description of the projects supported, the number of units assisted, and the amount of matching funds received.

SEC. 2. Section 53545.9 of the Health and Safety Code is amended to read:

53545.9. Of the one hundred million dollars (\$100,000,000) transferred to the Affordable Housing Innovation Fund established in the State Treasury under subparagraph (F) of paragraph (1) of subdivision (a) of Section 53545, the following amounts shall be allocated as follows:

(a) The department shall make available the amount of twenty-five million dollars (\$25,000,000) for the Affordable Housing Revolving Development and Acquisition Program established pursuant to Section 50705.

(b) (1) The department shall make available the amount of thirty-five million dollars (\$35,000,000) for the local housing trust fund matching grant program established under Section 50843.5. The department shall make available 50 percent of this amount exclusively for newly established housing trust funds.

(2) Notwithstanding any other law, funds set aside for housing trust funds pursuant to this subdivision shall be continuously available for encumbrance and disbursement to those trust funds, and shall not revert to the Self-Help Housing Fund created by Section 50697.1, or any other fund.

(c) The department shall make available the amount of ten million dollars (\$10,000,000) for the Innovative Homeownership Program, which the department shall develop and implement as follows:

(1) The program shall be designed to increase or maintain affordable homeownership opportunities for Californians with lower incomes.

(2) The department shall adopt guidelines for the program that, among other things, shall maximize the number of units assisted, limit the expenditure of funds for administrative costs, and maximize the leverage of public and private financing sources.

(3) The guidelines adopted by the department shall provide for the issuance of a notice of funding availability soliciting competitive proposals for the use of funds consistent with those guidelines and with subparagraph (F) of paragraph (1) of subdivision (a) of Section 53545.

(4) The guidelines adopted by the department shall not be subject to the requirements of Chapter 6.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) The department shall include within the annual report required under Section 50408 a detailed summary and description of the manner in which funds made available under this subdivision were expended during the previous year and a statement regarding the manner in which those expenditures meet the intent of the Legislature and the voters that funds

from the Innovative Housing Fund be expended in support of innovative, cost-saving approaches to creating or preserving affordable housing.

(d) (1) The amount of thirty million dollars (\$30,000,000) is transferred from the Affordable Housing Innovation Fund to a subaccount, which is hereby created, within the Housing Rehabilitation Loan Fund. Notwithstanding Section 13340 of the Government Code, the moneys transferred to the subaccount shall be continuously appropriated to the department for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31.

(2) The department shall provide for the issuance of a notice of funding availability soliciting competitive proposals for the use of the funds appropriated in paragraph (1). The notice of funding availability shall provide that the department will consider persons with developmental disabilities, including, but not limited to, those with autism, and homeless veterans as special needs populations for purposes of granting bonus points to developments serving special needs populations.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the expiration of funding needed to implement the Local Housing Trust Fund Matching Grant Program, it is necessary for this act to take effect immediately.